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# CAL's procedure for dispute resolution between members

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## More information

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## Disputes between members

Copyright Agency Limited (CAL) has found that disputes arise from time to time between members regarding who controls the rights in works and, consequently, to whom CAL should distribute money for any copying.

CAL's Board has approved a Dispute Resolution procedure to help members resolve disputes between themselves and other rightsholders over competing claims for payments from CAL's distributions.

The Dispute Resolution procedure aims to resolve who CAL should pay money to for the copying of a work and how those amounts should be shared among the rightsholders. The Dispute Resolution procedure does not attempt to resolve the overall issue of who owns copyright in the work.

## Other disputes

This particular procedure is only applicable to disputes between members. CAL licensees and members who wish to make a complaint regarding any aspect of CAL's operations can access our Complaints Handling procedure. If your complaint still remains unresolved you can then choose to enter CAL's Dispute Resolution procedure for members and licensees.

Further information can be found on the *Complaints Handling procedure* and *Dispute Resolution procedure between CAL and its members or licensees* information sheets.

## Why has CAL implemented this procedure?

CAL's role is to administer the reproduction and communication rights of its members. However, CAL plays no role in the negotiation of these rights between authors and publishers. We can only administer the rights as they have been agreed between writers and publishers.

There are often no clear contracts between writers and publishers, or a contract only covers part of the range of rights (for example, publication and republication, ignoring the reproduction right).

For example, more than one member might claim money from our distributions for the copying of the same work or the members do not agree on their share of the payment.

Members may still negotiate a resolution between themselves or take legal action to assist their claims. However, the Dispute Resolution procedure means that CAL can now help members to resolve these problems by using an independent arbitrator.

## What is the process?

Once CAL becomes aware of a dispute between members all money for copying of the works under dispute is placed in suspense. CAL will not distribute any money for the copying of those works while they are in dispute.

CAL then looks at the claims of both members to confirm they are not trivial. This means that the members need to notify CAL in writing of their claim and to supply some documentary evidence to support the claim (which may include a statutory declaration in particular where there is no written agreement between the members).

The third step is to refer the members to an independent expert, who is a senior copyright lawyer. CAL has established a panel of solicitors and barristers expressly for this purpose. The members must agree that any decision made by this expert is binding and that they will bear their own costs in the arbitration.



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The members then have to submit their cases in writing, along with any evidence they have. Members also have an opportunity to present their case in person.

Once CAL has received the determination of the independent expert the disputed amounts will be released from suspense and distributed in accordance with the ruling and CAL's normal distribution procedures.

Please note the decision of the independent expert is only binding in relation to entitlement to payments from CAL's distributions.

### **What do you need to do?**

If you have a disputed claim with another CAL member, then your first step is to advise us in writing. You must write to:

Disputes Officer  
Copyright Agency Limited  
Level 15, 233 Castlereagh Street  
Sydney NSW 2000

Your letter should outline the details of your claim and include some documentary evidence in support of your claim. From here, CAL will initiate the process.

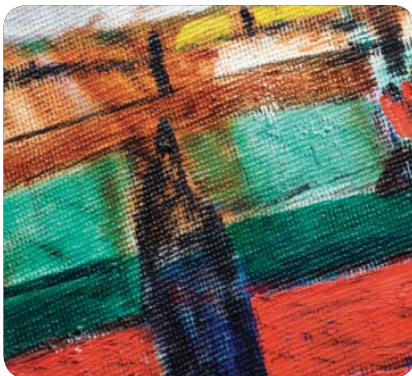
### **Who is CAL?**

Copyright Agency Limited (CAL) is a not-for-profit company set up by Australian authors, journalists, visual artists, photographers and publishers to manage part of their copying and communication rights. CAL is owned by its members, membership is free and members give CAL a non-exclusive licence in respect of their works.

### **Code of Conduct**

CAL is a signatory to the Code of Conduct for Copyright Collecting Societies (the Code). It is designed to ensure that the rights of all members and licensees are clearly stated, and that the operations of collecting societies are transparent and accessible.

The Code includes requirements for the Complaints Handling and Dispute Resolution procedures that collecting societies must follow. The Code and these procedures are available from CAL's website and on request.



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